IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 23381 of 2004

Between:

Sannihita Chit Funds Pv.Ltd., rep by its Managing Director K.Bhooma goud Near Civil Hospital, Ambedkar Road,
Christian Colony, Karimnagar Dist.

..... PETITIONER

AND

Municipal Council rep by its Commissioner
Karimnagar Municipality, Karimnagar Dist.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent in seeking to demolish the constructions made in 3rd and 4th floor of the premises belonging to the petitioner company bearing H.No.3-1-302 situated at Ambedkar Road, Christian Colony, Karimnagar as arbitrary and illegal and pass such other order or orders.

Counsel for the Petitioner:MR.S.SATYAM REDDY

Counsel for the Respondent No.: .

The Court at the stage of admission made the following :

ORDER:

The petitioner claims to have purchased an extent of 366.96 sq.yds. of land bearing House No.3-5-302 situated at Ambedkar Road, Christian Colony, Karimnagar under registered sale deed. It is stated that he applied for construction of ground, first and second floors, in the open plot, to the respondent and that the respondent accorded permission vide proceedings dated 04.02.2002. After completion of the construction of three floors, he stated to have made an application seeking permission to construct 3rd and 4th floors on the existing building by paying requisite fee. Since the respondent has neither rejected the application nor accorded permission for construction of the 3rd and 4th floors, deeming that the permission was granted after the prescribed period for grant of permission had been elapsed, he proceeded with construction. Thereafter, the respondent issued a provisional order dated 21.10.2002 to demolish the 3rd and 4th floors constructed by the petitioner. Apprehending that there is threat of demolition of the 3rd and 4th floors constructed by him, he filed O.S.No.235 of 2003 on the file of the Principal Junior Civil Judge, Karimnagar along with I.A.No.1427 of 2003 seeking ex parte interim injunction. The Court below granted the injunction in I.A.No.1427 of 2003 and subsequently dismissed the same by order dated 28.10.2003. The grievance of the petitioner is that after applying for grant of permission and waiting for reasonable period, since no action was taken by the respondents, he has proceeded with the construction in 3rd and 4th floors and the action of the respondents in proceeding to demolish the same is illegal and arbitrary.

Heard both sides. Both counsel agreed for disposal of the writ petition at the admission stage.

Admittedly, the petitioner has not obtained any permission for construction of 3rd and 4th floors and has already approached the Civil Court and the matter is pending. Though Initially, the Civil Court has granted *ex parte* injunction, subsequently, it vacated the injunction holding that the petitioner without responding to the provisional order issued by the Municipality, illegally proceeded with the

construction of 3rd and 4th floors and directed the respondent to proceed with according to the rule and relevant Act in order to get it rectified or demolished. Questioning the said order, the petitioner also preferred an appeal before the District Court, Karimnagar and the same is pending and stated to have been posted to 17-12-2004.

Since, the petitioner has made constructions without obtaining any permission as required under law and the appeal is pending before the Competent Civil Court, I see no reason to interfere with the matter. The writ petition fails and the same is dismissed at the admission stage. However, the petitioner is at liberty to pursue his remedies before the Civil Court.

16.12.2004

Tvk

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.. The Commissioner, Municipal Council, Karimnagar Municipality,

Karimnagar Dist.

1.2CCs to

2.2CD copies

3.2CCs to

Form-NIC-OGS/WP{*MVK}*